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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 HECTOR CONTRERAS IBARRA,

14 Defendant.

CASE NO. CR16-0287JLR

ORDER

15 **I. INTRODUCTION**

16 Before the court are *pro se* Defendant Hector Contreras Ibarra's motions (1) for a  
17 reduction in sentence pursuant to 18 U.S.C. § 3852(c)(2) and for appointment of counsel  
18 (Sent'g Mot. (Dkt. # 968)); (2) to compel Plaintiff the United States of America (the  
19 "Government") to produce Mr. Ibarra's post-sentencing rehabilitation documents (1st  
20 Mot. to Compel (Dkt. # 969)); and (3) to compel the Government to produce Mr. Ibarra's  
21 medical records (2d Mot. to Compel (Dkt. # 970)). The Government opposes Mr.  
22 Ibarra's motions. (Resp. (Dkt. # 976).) The court has considered Mr. Ibarra's motions,

1 the parties' submissions in support of and in opposition to the motions, the relevant  
2 portions of the record, and the applicable law. Being fully advised, the court DENIES  
3 Mr. Ibarra's motions.

## 4 II. BACKGROUND

5 Mr. Ibarra is a 40-year-old inmate who is currently detained at Federal  
6 Correctional Institution ("FCI") Lompoc II. *See Inmate Locator*, Fed. Bureau of Prisons,  
7 <https://www.bop.gov/inmateloc/> (last visited May 15, 2024). Mr. Ibarra, along with 13  
8 co-defendants, was arrested in November 2018 on charges of conspiracy to distribute  
9 controlled substances, including methamphetamine, heroin, and cocaine, and later  
10 charged with three additional counts of distribution of controlled substances. (*See* 2d  
11 Superseding Indictment (Dkt. # 374).) A jury convicted Mr. Ibarra of all charges.  
12 (10/16/17 Min. Entry (Dkt. # 665); Jury Verdict (Dkt. # 679).)

13 Mr. Ibarra proceeded to sentencing on January 16, 2018. (*See* 1/16/18 Min. Entry  
14 (Dkt. # 772).) According to the presentence investigation report ("PSR"), Mr. Ibarra  
15 scored one criminal history point for a prior negligent driving conviction in 2006, placing  
16 him in Criminal History Category I. (PSR (Dkt. # 752) ¶ 58.) Mr. Ibarra received  
17 upward adjustments for making credible threats of violence and possessing firearms in  
18 connection with the offense, resulting in a Total Offense Level of 42. (*Id.* ¶¶ 46-47.)  
19 Collectively, these factors produced a sentencing range of 360 months to life  
20 imprisonment under the United States Sentencing Guidelines (the "Guidelines"). (*Id.*  
21 ¶ 80.) The undersigned adopted the PSR without change (Statement of Reasons ("SOR")  
22 (Dkt. # 977) at 1), and imposed a sentence of 180 months in prison followed by five years

1 of supervised release—a significant downward departure from the Guidelines range.  
2 (1/16/18 Min. Entry; *see also* Judgment (Dkt. # 773).) Mr. Ibarra appealed his conviction  
3 and the Ninth Circuit Court of Appeals affirmed. (*See* Mem. (Dkt. # 868).) Mr. Ibarra is  
4 currently serving his 180-month sentence and his projected release date is August 14,  
5 2028. *See Inmate Locator, supra*.

6 Mr. Ibarra has previously filed two motions for compassionate release, as well as  
7 two related motions seeking to compel the Bureau of Prisons to produce his medical  
8 records and post-sentencing rehabilitation documents. (10/20/20 Comp. Rel. Mot. (Dkt.  
9 # 882); 3/31/23 Comp. Rel. Mot. (Dkt. # 940); 3/31/23 1st Mot. to Compel (Dkt. # 941);  
10 3/31/23 2d Mot. to Compel (Dkt. # 942).) The court denied each motion. (11/19/20  
11 Order (Dkt. # 890); 5/8/23 Order (Dkt. # 957).) On March 14, 2024, Mr. Ibarra filed the  
12 instant motion for a reduction in his sentence, arguing he is entitled to relief under  
13 Amendment 821 to the Guidelines and requesting appointment of counsel in support of  
14 the motion. (*See generally* Sent’g Mot.) The same day, Mr. Ibarra filed two other  
15 motions seeking to compel the Government to produce his medical records and  
16 post-sentencing rehabilitation documents. (*See generally* 1st Mot. to Compel; 2d Mot. to  
17 Compel.) The Federal Public Defender’s Office has not sought appointment in this  
18 matter (*see generally* Dkt.), and the Government opposes Mr. Ibarra’s motions (*see*  
19 *generally* Resp.). The motions are now ripe for decision.

### 20 III. ANALYSIS

21 The court begins with the principle that a “judgment of conviction that includes [a  
22 sentence of imprisonment] constitutes a final judgment and may not be modified by a

1 district court except in limited circumstances.” *Dillon v. United States*, 560 U.S. 817,  
2 824 (2010) (internal quotations omitted). 18 U.S.C. § 3582(c)(2) creates an exception to  
3 the general rule of finality, providing that

4 in the case of a defendant who has been sentenced to a term of imprisonment  
5 based on a sentencing range that has subsequently been lowered by the  
6 Sentencing Commission pursuant to 28 U.S.C. 994(o) . . . the court may  
7 reduce the term of imprisonment, after considering the factors set forth in  
section 3553(a) to the extent that they are applicable, if such a reduction is  
consistent with applicable policy statements issued by the Sentencing  
Commission.

8 18 U.S.C. § 3582(c)(2). To qualify for a sentence reduction under 18 U.S.C.  
9 § 3582(c)(2), two conditions must be met: (1) the defendant must have been sentenced to  
10 a term of imprisonment based on a sentencing range that has been lowered by a  
11 retroactively applicable Guidelines amendment; and (2) the sentence reduction sought  
12 must be consistent with the Sentencing Commission’s applicable policy statements.  
13 *United States v. Waters*, 771 F.3d 679, 680 (9th Cir. 2014) (per curiam). The court lacks  
14 jurisdiction to grant a sentence reduction absent these two requirements. *See United*  
15 *States v. Wessen*, 583 F.3d 728, 730-31 (9th Cir. 2009).

16 Relevant here, Amendment 821 to the Guidelines took effect November 1, 2023,  
17 and applies retroactively. *See Amendment 821*, U.S. Sent’g Comm’n,  
18 <https://www.ussc.gov/guidelines/amendment/821> (last visited May 16, 2024). The  
19 Amendment provides for a two-level reduction in the offense level for certain defendants  
20 with zero criminal history points (the “zero-point offender” reduction). *Id.*; *see United*  
21 *States Sentencing Guidelines* (“U.S.S.G.”) § 4C1.1(a). Section 4C1.1(a) of the

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1 Guidelines sets out ten criteria that a zero-point offender must meet in order to qualify for  
2 relief. *See* U.S.S.G. § 4C1.1(a)(1)-(10).

3       Turning now to the instant motion, the court concludes Mr. Ibarra is not entitled to  
4 a reduction in sentence because he fails to meet several eligibility criteria for the  
5 zero-point offender reduction. First, Mr. Ibarra is not a zero-point offender because he  
6 received one criminal history point for a prior traffic offense. *Id.* § 4C1.1(a)(1) (requiring  
7 that “the defendant did not receive any criminal history points”). (*See* PSR at 12; SOR at  
8 1.) Second, Mr. Ibarra fails to meet the requirement that he “did not use violence or  
9 credible threats of violence in connection with the offense” because he was assessed a  
10 two-level upward adjustment for making a credible threat to torture a co-conspirator over  
11 a drug debt. U.S.S.G. § 4C1.1(a)(3); (*see* PSR ¶¶ 36, 47; SOR at 1). Third, Mr. Ibarra  
12 fails to meet the requirement that he “did not possess, receive, purchase, transport,  
13 transfer, sell, or otherwise dispose of a firearm or other dangerous weapon (or induce  
14 another participant to do so) in connection with the offense.” U.S.S.G. § 4C1.1(a)(7). In  
15 fact, Mr. Ibarra was assessed a two-level upward adjustment for possession of multiple  
16 firearms in connection with the offense. (PSR ¶¶ 38, 46; SOR at 1.) Accordingly, Mr.  
17 Ibarra is ineligible for the zero-point offender reduction.

18       Having determined that Mr. Ibarra’s Section 3582(c)(2) motion lacks merit, the  
19 court declines to appoint counsel on his behalf and concludes Mr. Ibarra’s motions to  
20 compel are moot.

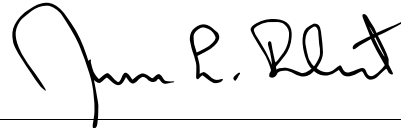
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**IV. CONCLUSION**

For the foregoing reasons, the court DENIES Mr. Ibarra's motion for a reduction in sentence and for appointment of counsel (Dkt. # 968), and further DENIES Mr. Ibarra's motions to compel as moot (Dkt. ## 969-70).

Dated this 17th day of May, 2024.

A handwritten signature in black ink, appearing to read "James L. Robart", written over a horizontal line.

JAMES L. ROBART  
United States District Judge